

¹ 5 U.S.C. § 8101 *et seq.*

FACTUAL HISTORY

On October 12, 2005 appellant, then a 34-year-old forestry technician, filed a traumatic injury claim (Form CA-1) alleging that on September 7, 2005 he injured his back when he carried a person on a backboard down a steep, uneven trail while in the performance of duty. He was released to return to modified-duty work on October 13, 2005 and to regular work with no restrictions on November 17, 2005. OWCP accepted the claim for lumbar sprain.

On April 26, 2021 appellant filed a Form CA-2a claiming a recurrence of the need for medical treatment commencing April 4, 2021.

In a development letter dated May 17, 2021, OWCP requested that appellant submit additional evidence in support of his recurrence claim, including a physician's opinion supported by a medical explanation as to the relationship between his current need for medical treatment and the accepted September 7, 2005 employment injury. It provided a questionnaire for his completion. OWCP afforded appellant 30 days to respond.

In a completed questionnaire dated May 24, 2021, appellant replied that he required further medical care as his back pain was severe. He also noted that he had not missed any work. Appellant explained that he had experienced back pain since his 2005 employment injury, which had worsened.

By decision dated August 3, 2021, OWCP denied appellant's claim for a recurrence of the need for medical treatment, finding that the medical evidence of record was insufficient to establish a need for medical treatment "due to a worsening of your accepted work-related conditions without intervening cause."

LEGAL PRECEDENT

The United States shall furnish to an employee who is injured while in the performance of duty the services, appliances, and supplies prescribed or recommended by a qualified physician that the Secretary of Labor considers likely to cure, give relief, reduce the degree or the period of any disability, or aid in lessening the amount of any monthly compensation.²

A recurrence of a medical condition means a documented need for further medical treatment after release from treatment for the accepted condition or injury when there is no accompanying work stoppage.³ An employee has the burden of proof to establish that he or she sustained a recurrence of a medical condition that is causally related to his or her accepted employment injury without intervening cause.⁴

² 5 U.S.C. § 8103(a).

³ 20 C.F.R. § 10.5(y).

⁴ *S.P.*, Docket No. 19-0573 (issued May 6, 2021); *M.P.*, Docket No. 19-0161 (issued August 16, 2019); *E.R.*, Docket No. 18-0202 (issued June 5, 2018); *Mary A. Ceglia*, Docket No. 04-113 (issued July 22, 2004).

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a recurrence of the need for medical treatment on or after April 4, 2021 causally related to his accepted September 7, 2005 employment injury.

On April 27, 2021 appellant filed a Form CA-2a for medical treatment due to his continued back pain. OWCP informed him, in a development letter dated May 17, 2021, of the type of medical evidence required to establish his recurrence claim. To meet his burden of proof, appellant was required to submit medical evidence, which explained why he required further medical treatment for his accepted lumbar sprain.⁵ He, however, has not submitted any medical evidence in support of his recurrence claim. As appellant has not submitted any medical evidence establishing a recurrence of a need for medical treatment due to his accepted September 7, 2005 employment injury, the Board finds that he has not met his burden of proof.⁶

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant has not met his burden of proof to establish a recurrence of the need for medical treatment, commencing April 4, 2021, causally related to his accepted September 7, 2005 employment injury.

⁵ *C.B.*, Docket No. 19-0121 (issued July 2, 2019); *E.G.*, Docket No. 18-1383 (issued March 8, 2019); *see also C.J.*, Docket No. 18-1181 (issued May 20, 2019); *A.L.*, Docket No. 16-1092 (issued May 9, 2017).

⁶ *See C.B., id.*; *E.R.*, Docket No. 18-0202 (issued June 5, 2018); *Mary A. Ceglia, supra* note 4.

ORDER

IT IS HEREBY ORDERED THAT the August 3, 2021 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 11, 2022
Washington, DC

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

Janice B. Askin, Judge
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board